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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/606,664

06/26/2003

Michael Nally

57471/03-012

4708

22206

7590

02/22/2005

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EXAMINER

WAMBACH, MARGARET R

ART UNIT

PAPER NUMBER

2816

DATE MAILED: 02/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/606,664

Applicant(s)

NALLY ET AL.

Examiner

Margaret R. Wambach

Art Unit

2816

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7,9-11 and 13-18 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-7,9-11 and 13 is/are allowed.
- 6) ☒ Claim(s) 14,16 and 17 is/are rejected.
- 7) ☒ Claim(s) 15 and 18 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 June 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 14, 16 and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Poulson.

Figure 1 of Poulson teaches a portable device as recited in claims 14 and 17 comprising an attachment module (16, 20, 22, 24 including the entire hook) for removably connecting to a wearer (the clip connects it to the wearer yet it is removable) and a display module (cell phone case 10 and the display of the telephone mentioned on column 1, lines 55-59) defining a window for displaying information (cell phone cases have windows for at least displaying the selection buttons of the numeral pad as confirmed by column 1, lines 55-58) wherein said display module is extendably and retractably (the leash cord extends and retracts) connected to said attachment module (the leash cord is connected to its housing, 16) wherein the display module and said attachment module are adapted to be substantially prevented from moving relative to one another when said display module and said attachment module are retractable connected (when the hook is coupled to the eye as shown in Figure1, the display module cannot be moved away from attachment module and vice versa.)

With regard to the limitations of claims 16 and 17 of “an actuator assembly in said display module”, this feature is also taught by Poulson. More particularly, an “actuator” is “a mechanism for moving or controlling something indirectly instead of by hand” according to Webster’s Ninth New Collegiate Dictionary. Accepting this definition then, it is clear that the display module (i.e., the cell phone display) is controlled by a mechanism or an actuator that causes images to appear.

In response to Applicant’s arguments, it is true that the hook and eye connection of Poulson does not eliminate all movement between the two modules; however, it does restrain movement and prevents certain movements altogether. Since the claim language does not require a cessation of movement and Poulson does “substantially” prevent movement, the degree of play between modules seen in the Poulson reference does not surpass the amount made permissible by the claim language.

Allowable Subject Matter

Claims 1-7, 9-11 and 13 are allowed.

Claims 15 and 18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Margaret R. Wambach whose telephone number is (571)272- 1756. The examiner can normally be reached on Monday, Tuesday, Thursday and Friday 6am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Timothy Callahan can be reached on (571)272-1740. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Margaret R Wambach

Margaret R. Wambach
Primary Examiner